

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

463Q0495

### SENATE BILL NO. 131

Introduced by: Senators Gillespie, Abdallah, and Hunhoff (Jean) and Representatives Hunhoff (Bernie), Bolin, Engels, Juhnke, Lederman, Peters, Rausch, and Street

1 FOR AN ACT ENTITLED, An Act to authorize sheriffs to order autopsies.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 23-14-9.1 be amended to read as follows:

4 23-14-9.1. If a state's attorney or a sheriff or a coroner has reason to believe that a deceased  
5 person may have died in his or her jurisdiction by unlawful means, ~~either of them~~ the state's  
6 attorney, sheriff, or coroner may order and direct a physician or surgeon to perform an autopsy.

7 If in the public interest, the county coroner may order an autopsy on those deaths falling within  
8 ~~his~~ the county coroner's jurisdiction mentioned in subdivisions 23-14-18(1) to (5), inclusive.

9 Section 2. That § 34-26-2 be amended to read as follows:

10 34-26-2. An autopsy may be performed upon the body of a deceased person by a physician  
11 or surgeon ~~when~~ whenever so authorized in writing, or by electronically recorded telephone  
12 communication:

13 (1) By the decedent during ~~his~~ the decedent's lifetime; or

14 (2) By the decedent's surviving spouse; or



1       (3)    If the surviving spouse is incompetent or not available or if there be no surviving  
2            spouse, by an adult child, parent, brother, or sister of the decedent. However, such  
3            autopsy may not be performed under a consent given as required by this subdivision  
4            if, before such autopsy is performed, any adult child or parent of the decedent ~~shall~~  
5            ~~object~~ objects in writing to the physician or surgeon by whom the autopsy is to be  
6            performed;

7       (4)    By the state's attorney, county sheriff, or investigating county coroner pursuant to  
8            § 23-14-9.1.

9       Section 3. That § 34-26-5 be amended to read as follows:

10       34-26-5. The right to dissect the dead body of a human being exists if the death occurs under  
11       circumstances in which a coroner is authorized by law to hold an inquest upon the body or under  
12       the provisions of § 23-14-9.1, and a coroner, sheriff, or the state's attorney designated by law  
13       to order an autopsy authorizes such dissection for the purposes of the inquest.